

Article - Environment

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§7-406.

(a) Each application for a certificate submitted to the Board shall contain a report with information of the type, quality, and detail that will permit adequate consideration of the environmental, social, technical, and economic factors involved in the establishment and operation of the proposed facilities. The applicant shall make the report available to affected subdivisions and to the public.

(b) (1) On receipt of the application for a certificate the Board shall forward a copy of that application to the Department. The Department shall consider the application for a certificate as an application for the facility permit that is required under this article.

(2) On receipt of any application for a facility permit that is required under this article, the Department shall forward a copy of the facility permit application to the Board.

(c) (1) The portion of the applicant's report dealing with environmental and social assessments shall contain, but not be limited to:

(i) The potential impact of the method and route of transportation of hazardous or low-level nuclear waste to the site and the potential impact of the establishment and operation of the proposed facility on air and water quality, existing land use, transportation, and natural resources in the area affected by proposed facilities;

(ii) A description of the expected effect of the facility; and

(iii) Recommendations for minimizing any adverse impact.

(2) The portion of the applicant's report dealing with technical and economic assessments shall contain, but not be limited to:

(i) Detailed descriptions of the proposed site and facility, including site location and boundaries and facility purpose, type, size, capacity, and location on the site and estimates of the cost and charges to be made for material accepted; and

(ii) Provisions for managing the site following cessation of operation of the facility.

(d) Acceptance by the Board of any application for processing does not preclude the Board from requiring further information from the applicant if the Board considers the additional information necessary for adequate consideration of the application.

(e) (1) The Board shall adopt regulations describing and governing the procedure for obtaining a certificate, including procedures under paragraph (2) of this subsection. The provisions of this section do not exempt the Board from the requirements of Title 10, Subtitles 1 and 2 of the State Government Article.

(2) Procedural regulations adopted under this subsection shall:

(i) Provide for notice to interested persons of any decision to issue or deny a certificate;

(ii) Permit a person to request a hearing under Title 10, Subtitle 2 of the State Government Article (Administrative Procedure Act – Contested Cases), if the person makes factual allegations with sufficient particularity to demonstrate that:

1. The person is aggrieved by the decision; and

2. The decision is:

A. Legally inconsistent with any provision of law applicable to the decision being challenged; or

B. Based upon an incorrect determination of a relevant and material fact;

(iii) Provide the Board with discretionary authority to stay the effectiveness of its decision pending the outcome of the hearing; and

(iv) Provide that, if a request for a hearing is granted, the Board's final decision on the application shall be based on the record made in the hearing, including the proposed findings of fact and conclusions of law recommended to the Board by the presiding officer.

(f) (1) At least 90 days prior to issuance of a certificate, the Board shall seek the advice and comment of the following:

(i) The Secretaries of Natural Resources, the Environment, Commerce, and Agriculture;

(ii) The Director of Planning;

(iii) The Controlled Hazardous Substances Advisory Council;

and

(iv) The governing body of any subdivision of the State within which all or part of the proposed site is to be located and the governing bodies of adjoining subdivisions.

(2) At least 90 days prior to the issuance of a certificate, the Board shall seek the comments of:

(i) Each landowner of record whose property is within 1,000 feet of the proposed site; and

(ii) Residents who live within 1 mile of the proposed site.

(3) Within 30 days after the Board seeks the advice of a party listed under paragraph (1) of this subsection, the party shall respond to the Board in writing by either:

(i) Setting forth the advice and comments of the party as to the proposed certification; or

(ii) Stating that the party has no comments as to the proposed certification.

(g) (1) Before it may issue a certificate, the Board shall hold an informational meeting in the subdivision in which the proposed site is to be located for the purpose of receiving advice and comments from the public.

(2) The informational meeting shall be held at least 60 days prior to the issuance of a certificate.

(3) If a site is located in more than one subdivision, the informational meeting shall be held at a location reasonably convenient and accessible to the affected jurisdictions.

(4) The informational meeting may not be held until the application is complete.

(h) (1) The Board shall make a decision to issue or deny a certificate within 6 months of receipt of an application and any additional information required

under this section, and shall advise the governing body of a subdivision in writing of any rejection of a site that it recommended and of the reasons for the rejection.

(2) With the concurrence of the applicant, the Board may extend this period for no more than an additional 6 months.

(i) The Board shall set by rule and regulation a reasonable schedule of fees necessary to recover the costs of processing applications and issuing certificates under this subtitle.

(j) On issuance of a certificate the Board shall file a copy of that certificate with the Secretary to the Board and the Secretary of State. Copies of the certificate shall be sent by the Secretary to the Board to:

(1) The governing body of any political subdivision of the State within which all or part of the proposed site is to be located and the governing bodies of adjoining subdivisions;

(2) The record owner(s) of the site and the record owners of adjoining property;

(3) The applicant, if different from the record owner;

(4) The Department;

(5) The Department of Natural Resources;

(6) The Department of Agriculture;

(7) The Maryland Department of Labor; and

(8) The Department of Planning.

(k) The Board shall maintain records of its transactions including the applications and supporting data submitted by those seeking certificates from the Board and any other technical data considered in issuing or denying a certificate. These records are public records for the purposes of Title 4 of the General Provisions Article.

(l) The Board shall consider, review, and approve or deny hazardous or low-level nuclear waste sites applied for by the Maryland Environmental Service in the same manner in which it acts upon applications for issuance of certificates from other parties.

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